

IN THE HIGH COURT OF JUDICATURE AT PATNA
First Appeal No.519 of 1984

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Raghubir Pandey & Ors

.... Appellant/s

Versus

Gautam Pandey & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Suresh Ch. Pd.
Mr. B.P.Sinha

For the Respondent/s : Mr. P.K.Mishra

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

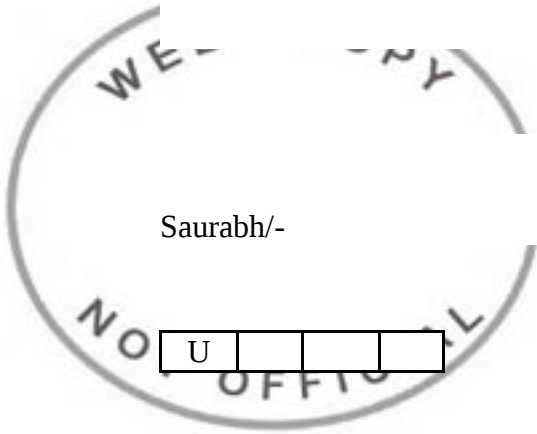
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Perused the office note dated 25.08.2015.

In view of the office note, the order dated 01.04.2013 is modified to the extent that further two weeks time is granted to file substitution application regarding the death of respondent Nos.1, 2, 4 and 5. In the order, by mistake, it is typed as respondent Nos.1 to 4 and 5. Consequently, the subsequent order also stands modified to that effect i.e. order dated 13.08.2015 and it is held that the appeal has abated for non-substitution of the legal representatives of the deceased respondent Nos.1, 2, 4 and 5.

From perusal of the memo of appeal, it appears that the only plaintiff-respondent Nos.1 and 2 were the contesting respondents in whose favour, the decree has been passed. Since the appeal has abated against respondent Nos.1 and 2 also, who were the plaintiffs in the court below, therefore, in their absence,

the appeal cannot proceed. Accordingly, the appeal has already
been rightly dismissed as incompetent.



Saurabh/-

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(Mungeshwar Sahoo, J)